

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 19-966(DSD/TNL)

Abdul-Aziz Rashid Muhammad,
aka William Anthony Brown,

Petitioner,

v.

ORDER

David Paul, Warden
Federal Medical Center (FMC-Rochester),

Respondent.

This matter is before the court upon the report and recommendation by United States Magistrate Judge Tony N. Leung dated June 28, 2019 (R&R). The magistrate judge recommended that the action be dismissed without prejudice for lack of jurisdiction and that the court deny the motion to proceed in forma pauperis as moot. Petitioner Abdul-Aziz Rashid Muhammad objects to the R&R.

The court reviews the R&R de novo. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); D. Minn. L.R. 72.2(b). After a thorough review of the file and record, the court finds that the report and recommendation is well-reasoned and correct and that Muhammad's objections are meritless.

Muhammad essentially argues that the sentencing court improperly considered his since-vacated 1974 conviction in fashioning his sentence in the underlying criminal case. As set

forth in the R&R, the record establishes otherwise. Furthermore, Muhammad has made no showing that he is entitled to relief under 28 U.S.C. § 2241, because he cannot establish that 28 U.S.C. § 2255 does not provide an adequate remedy. Abdullah v. Hedrick, 392 F.3d 957, 959 (8th Cir. 2004).

Accordingly, **IT IS HEREBY ORDERED** that:

1. The R&R [ECF No. 3] is adopted in its entirety;
2. The petition [ECF No. 1] is dismissed without prejudice for lack of jurisdiction; and
3. The IFP Application [ECF No. 2] is denied as moot.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: July 31, 2019

s/David S. Doty
David S. Doty, Judge
United States District Court